

REMARKS

Applicant is in receipt of the Office Action mailed April 8, 2004. Claims 1 – 44 were pending. Applicant has amended claims 1, 6 – 8, 15, 17, 22 – 24, 28 – 31, and 36 – 38. Applicant has cancelled claims 5, 21, and 35. Claims 1 – 4, 6 – 20, 22 – 34, and 36 – 44 therefore remain pending in the application.

Claims 7, 8, 23, 24, 37 and 38 were objected to by the Examiner as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has accordingly amended claims 7, 8, 23, 24, 37 and 38, which are now believed to be in allowable condition.

The Examiner objected to claim 17 because of an informality. Applicant has accordingly amended claim 17.

Claims 1 – 6, 13, 15 – 22, 29, 31 – 36, and 43 were rejected under 35 U.S.C. §102(e) as being unpatentable over Sasamoto et al. (USPN 6,442,711, hereinafter “Sasamoto”). Claims 9 – 12, 14, 25 – 28, 30, 39 – 42, and 44 were rejected under 35 U.S.C. §103(a) as being unpatenatable over Sasamoto in view of Matthews (USPN 4,532,628).

Sasamoto teaches “means for storage a history of self-recovered errors of each one of the plurality of data storage devices on the basis of the history of errors, means for judging a necessity to execute a preventative maintenance of teach one of the plurality of data storage devices from the error rate, and means for executing the preventative maintenance.” (Abstract) However, Applicant can find no teaching or suggestion in Sasamoto of **“setting the count to a base level,”** as recited in Applicant’s newly amended claim 1.

Accordingly, claim 1 is believed to patentably distinguish over the cited art, along with its dependent claims. Newly amended independent claims 15 and 31 recite similar

limitations to claim 1, and are thus believed, along with their respective dependent claims, to distinguish over the cited art for at least the above reason.

In addition, Applicant's claim 13 recites "**decreasing the count if the time elapsed after the first data integrity error and before a second data integrity error is greater than a preset refresh period.**" In contrast, Sasamoto teaches "If the judging means 303 judges the necessity of preventive maintenance from an error rate and its inclination in addition to the total number of errors the threshold level can be set up with a more appropriate value which is higher than a conventional level." (Col. 6, lines 6 – 10) Sasamoto teaches setting a higher threshold level, not "**decreasing the count,**" as recited in Applicant's claim 13.

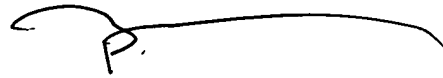
Accordingly, claim 13 is believed to patentably distinguish over the cited art. Claims 29 and 43 recite limitations similar to claim 13, and are thus also believed to patentably distinguish over the cited art for at least the above reason.

CONCLUSION

In light of the foregoing remarks, Applicant respectfully submits the application is now in condition for allowance, and an early notice to that effect is requested.

No fees are believed necessary; however, the Commissioner is authorized to charge any fees which may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 50-1505\5681-81600\BNK.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Noël Kivlin', with a long horizontal flourish extending to the right.

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